

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4976 OF 2003

Shri Anil Maruti Mane .. Petitioner

v/s.

State of Maharashtra and ors. .. Respondents

Mr.R.K.Mendadkar with Ms.Helen Koli-Mandlik for the petitioner.

Mr.C.R.Sonawane, Assistant Government Pleader for the respondent Nos.1,2 and 4.

CORAM : R. M. LODHA AND
R.S. MOHITE,JJ.

DATED : 21st April 2005

P.C.

Heard Mr.R.K.Mendadkar, the learned counsel for the petitioner and Mr.C.R.Sonawane, the learned AGP for respondent Nos.1,2 and 4.

2. Assailing the order of the Committee for Scrutiny and Verification of Tribe Claims dated 16.6.2003, the learned counsel for the petitioner raised the following contentions:

i) That the impugned order was passed by the Scrutiny Committee without affording adequate and proper opportunity to the petitioner and thus, the impugned order is in violation of principles of natural justice.

ii) That in the old school register, the petitioner's father's caste is recorded as Mahadeo Koli. The correction in the school register has not been seen by the Scrutiny Committee in right perspective.

iii) That the Scrutiny Committee erred in not properly applying the affinity test.

3. None of the contentions has any substance. The brief reasons we indicate hereinafter.

4. That the principles of natural justice were fully followed by the Caste Scrutiny Committee is apparent from the impugned order itself. The Caste Scrutiny Committee observed thus-

"Taking in view the point of natural justice, the enquiry report alongwith documents obtained by way of enquiry were sent to the candidate for obtaining his say thereon and he was asked to submit his say on enquiry report on or before 15.11.99 vide this office letter dated 8.10.99. However, he has not submitted his say on enquiry report due to illness and accordingly informed this office by telegraphically. Therefore one more opportunity was given to the candidate through his office to submit his say on enquiry report. On or before 5.7.2000 vide this office letter dated 20.6.2000. therefore, one letter was issued to the Chief Executive Officer, Zilla Parishad, Satara on 16.11.2000 requesting him to ask

the candidate to submit his say on enquiry report immediately otherwise Committee will not be held responsible. As per the letter dated 8.7.2001 issued by the Chief Executive Officer, Zilla Parishad, Satara, the candidate has submitted his say on enquiry report vide his letter dated 8.3.2001 and raised the following points.

(1) Conclusion drawn by the Deputy Superintendent of Police cannot be accepted.

In this connection, it is to be pointed out that in the school general register which has been issued by the Head Master, Zilla Parishad School, Panchwad, Tal.Khatav wherein caste of the candidate's father Shri Maruti Vithoba Mane is clearly shown as Hindu Koli and the word Mahadeo is written later on. Accordingly, the Head Master has given in writing that in caste column the Mahadeo is written by different ink and in different handwriting showing arrow between Hindu and Koli. Moreover in the school register against date of admission - previous register No.38 is shown. Previous register No.38 is also obtained by way of enquiry which has been issued by the Head Master, Jeevan Shikshan Vidyamandir, Panchwad, Tal.Khatav wherein caste of the candidate's father Shri Maruti Vithoba Mane is clearly shown as Hindu Koli without any changes. Therefore, the contention of the candidate cannot be accepted.

Thereafter the candidate was called for personal hearing which was held on 15.2.2002 and 8.10.2002. However, candidate did not attend for personal hearing. The candidate has purposely avoided to remain present before the Scrutiny Committee for personal hearing. Therefore, the Scrutiny Committee has decided the tribe claim of the candidate on merit as follows on 9.5.2003."

5. After the enquiry report from the vigilance cell was received, that the copy of the enquiry report alongwith the documents was sent to the petitioner is not under challenge. The fact of the

matter is that the petitioner after taking lot of time did submit his say to the enquiry report vide his letter dated 8.3.2001. The petitioner was called for personal hearing on 15.2.2002 and 8.10.2002. On none of these occasions, the petitioner cared to appear. It is true that on 8.10.2002, he sent telegram for his absence on the ground of illness of his father but in our considered view, it was lame excuse for non-appearance and there was justification in the observation of the Cast Scrutiny Committee that the petitioner deliberately avoided to remain present. In our considered view, the reasonable and adequate opportunity was given to the petitioner and there was no violation of principles of natural justice.

The first contention is overruled.

6. The second contention of the learned counsel for the petitioner that in the school register, the petitioner's father's caste is recorded (after the correction) as Mahadeo Koli and that was sufficient for holding that the petitioner belongs to the caste Mahadeo Koli. The original school register was placed before us for our perusal by the learned AGP representing the respondent Nos.1,2 and 4. On the perusal of the said register, we find that petitioner's father's caste in the school register in the year 1947 was recorded as Hindu Koli. The

register indicates interpolation in the said entry by introducing the word " ". The correction bears some initial. There is no authenticity of the correction. There is no evidence to show as to who corrected the said entry. Also there is no evidence as to when such entry was corrected. The entry has not been corrected either at the instance or in the presence of the Education Officer or the Education Inspector. Besides that, it is pertinent to note that the entry Hindu Koli in the school register in relation to the petitioner's father is based on the school register of the Jeevan Shikshan Vidyamandir, Panchwad, Taluka Khatav where the petitioner's father studied earlier and that entry also recorded the caste of the petitioner's father as Hindu Koli. No doubt is, thus, left that the caste of the petitioner's father is Hindu Koli and that there was tampering in the school register by introducing the word " " between Hindu and Koli.

The second contention is also overruled.

7. With regard to the affinity test, we find no infirmity in the order of the Scrutiny Committee. Besides that, as already noticed above, the petitioner's father being Hindu Koli and not Mahadeo Koli, the petitioner is Hindu Koli by birth and not Mahadeo Koli.

8. There is no merit in the writ petition and it is dismissed in limine.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)